



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:

UT-040

4130/4160

FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND PROPOSED DECISION North Creek Allotment

Transfer of Grazing Preference From
Alan Green (Case File No. 4304375)

To

Cody William Wright (c/o William D. Wright)
and Issuance of a New Grazing Permit

INTRODUCTION

On June 17, 2014, Cody William Wright (c/o William D. Wright) (Case File No. 4304778) submitted transfer documentation for the grazing preference associated with the North Creek Allotment. The base property of the North Creek Allotment will remain in the control of Alan Green (Case File No. 4304375). The grazing preference is being purchased by Cody William Wright (c/o William D. Wright). The grazing preference will be attached to new base property that is owned by Cody William Wright (c/o William D. Wright).

This Proposed Decision will authorize the transfer of livestock grazing preference to Cody William Wright (c/o William D. Wright) and the issuance of a ten year grazing permit within the North Creek Allotment. No changes will be made to the Terms and Conditions of the grazing permit at this time. The Alan Green (Case File No. 4304375) grazing permit will be terminated.

BACKGROUND

The North Creek Allotment is located approximately 2 miles from Beaver, UT. (Refer to the Attached Map). The North Creek Allotment is located within the Beaver Bottoms-Upper Beaver Hydrologic Unit Boundary (HUB) as determined by the USGS.

A grazing permit renewal Environmental Assessment (EA)/Finding of No Significant Impact (FONSI)/Decision Record (DR) was prepared and issued to the interested public, which renewed the grazing permit in 2010. The Proposed Decision was issued for the 15-day protest and 30-day appeal period. The decision was not protested or appealed and became final on May 15, 2010 (a copy of the final decision is available upon request at the CCFO). (This action will be referred to as EA/FONSI/DR throughout the rest of this document).

The following grazing management system and Terms and Conditions were issued to Alan Green (Case File No. 4304375) through the 2010 Grazing Permit Renewal Decision.

- Establish the season of use for all livestock grazing permittees within the North Creek Allotment from May 20th – July 20th.
- Implement the following, which identifies the permittee, number of livestock, kind of livestock, season of use, percent public land and AUMs.

PERMITTEE	NUMBER OF LIVESTOCK	KIND OF LIVESTOCK	SEASON OF USE	% PUBLIC LAND	AUMs
Alan Green	25	Cattle	05/20-07/20	100	51

- Implement a 3 year grazing management system that includes the South, West Drag Hollow and Windmill Pastures within the North Creek Allotment. The grazing management system will rotate cattle through the available pastures quickly, eliminating repeated critical growing season use by livestock and allowing for spring re-growth following livestock removal. The following table illustrates the grazing management system.

Year	Pasture	05/20-06/09	06/10-06/30	07/01-07/20
1	South	Graze	----	----
	West Drag	----	Graze	----
	Windmill	----	----	Graze
2	South	----	----	Graze
	West Drag	Graze	----	----
	Windmill	----	Graze	----
3	South	----	Graze	----
	West Drag	----	----	Graze
	Windmill	Graze	----	----
4	Grazing schedule repeats beginning with year 1.			

- The Table Grounds Pasture is the fourth pasture in the North Creek Allotment. The grazing permittee assigned to run in the South Fork of North Creek on the adjacent USFS permit will graze this pasture. Grazing use will remain consistent with the current season of use and remain continuous seasonal for the two month grazing period. In order to comply with Standards 1 (upland soils) and 3 (biotic diversity) and Guideline 1c (meet physiological needs of plants); utilization objectives not to exceed 40 percent of current year's growth will be applied to the Table Grounds Pasture.

The following Allotment Specific Objectives have been identified for the North Creek Allotment and will serve as short-term and long-term monitoring indicators:

1. Utilization of "Key Upland Forage Species" will not exceed 50% by the end of the year within the South, West Drag and Windmill Pastures.
2. Utilization of "Key Upland Forage Species" will not exceed 40% by the end of the year within the Table Grounds Pasture.

3. Utilization of "Key Shrub Species" (bitterbrush, willow, cottonwood) will not exceed 40% by the end of the grazing year.
4. Range trend will be static to upward.
5. If utilization objectives reach specified objectives, the permittee will be required to remove cattle from that area within 3-5 days upon notification.
6. If a new bald eagle roost site is discovered on BLM lands in the future, BLM will monitor livestock grazing at that site and determine if grazing is affecting eagles at the roost. Any adverse effects will be mitigated, including removal of livestock if necessary.
7. In order to determine if these allotment specific objectives are being met, monitoring studies will be conducted in accordance with Attachment 1 of EA-UT-040-09-17.

Terms and Conditions Common to all Livestock Permittees

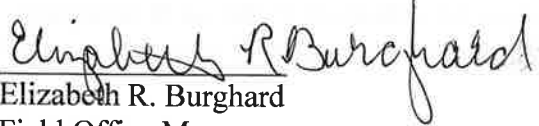
1. Livestock grazing use will be in accordance with the Livestock Decision and Environmental Assessment (UT-040-09-17) for the North Creek Allotment dated March 24, 2010.
2. Grazing fees must be paid in full prior to livestock turnout. Actual use information must be reported within 15 days following the completion of the grazing season.
3. Failure to pay the grazing bill within 15 days of the due date specified in the bill will result in a late fee assessment of \$25 or 10 percent of the bill, whichever is greater, but not to exceed \$250. Payment made later than 15 days after the due date, will include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 4140.1(b) (1) and will result in action by the authorized officer under 4150.1 and 4160.1-2.
4. Livestock grazing use will be managed in accordance with the Utah Guidelines for Grazing Management. This permit, including the terms and conditions, may be modified if additional information indicates that revision is necessary in order to conform with the Utah Standards for Rangeland Health, the Fundamentals of Rangeland Health and Regulations at Title 43 CFR 4100.
5. Maintenance of all structural range projects are a responsibility of the permittees. Maintenance will be in accordance with the approved cooperative agreements for range improvements (Form 4120-6) or range improvement permit (Form 4120-7). Failure to maintain assigned projects in satisfactory condition constitutes a violation in accordance with Title 43 CFR 4140.1 (a) (4) and may result in the suspension of your license until maintenance is completed.
6. All salt/mineral supplements will be located at least ¼ mile or further distance from any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision.

7. Supplemental feeding of roughage is prohibited on public lands unless emergency conditions exist, then only by written permission from the authorized officer [Title 43 CFR 4140.1 (a) (3)].
8. Movement to the next scheduled pasture or off of the allotment will occur on the specified dates, when unusual climatic conditions dictate a move or when the utilization objective is met. The permittee will be allowed 3-5 days flexibility to move livestock.
9. All exclosures on public land throughout the allotment(s) will be closed to livestock grazing unless grazing use is applied for by the permittee and is authorized in writing by the authorized officer.
10. All grazing permittees will provide reasonable access across private and/or leased lands to the BLM for the orderly management and protection of the public lands.
11. Livestock are to be managed (herding, salting, water hauling or removal) to ensure that the allotment specific objectives are met.
12. The Terms and Conditions of this permit may be modified if additional information indicates that revision is necessary to conform with 43 CFR 4180.
13. Permits and leases will be subject to cancellation, suspension or modification for any violation of these regulations or of any term or condition of the permit.

Documentation of Land Use Plan Conformance and a Determination of NEPA Adequacy (DOI-BLM-UT-C010-2015-0002-DNA) has been completed for the grazing allotment transfer and the issuance of a new ten-year term grazing permit to Cody William Wright (c/o William D. Wright). The DNA is tied to the Grazing permit Renewal for the North Creek Allotment (EA-UT-040-09-17). This EA analyzed the impacts of the grazing management decision, which identified season of use, kind and number of livestock, grazing management system, etc... The Grazing Permit Renewal Decision for the North Creek Allotment became final on May 15, 2010 following the protest and appeal period.

Finding of No Significant Impact (FONSI) Determination

Based on the identification and analysis of potential environmental impacts contained in the attached DOI-BLM-UT-C010-2015-0002-DNA and referenced EA-UT-040-09-17, I have determined that the action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement (EIS) is not required.


Elizabeth R. Burghard
Field Office Manager

10/27/14
Date

PROPOSED DECISION

It is my proposed decision to transfer the grazing preference for the North Creek Allotment from Alan Green (Case File No. 4304375) to Cody William Wright (c/o William D. Wright) (Case File No. 4304778) and issue a new ten year grazing permit to Cody William Wright (c/o William D. Wright). The ten year grazing permit will be issued consistent with the authorized use, grazing schedule and Terms and Conditions identified in the EA/FONSI/DR. The EA/FONSI/DR was issued for the 15-day protest and 30-day appeal period and became final on May 15, 2010 (a copy of these documents are available upon request at the CCFO). There was no protest or appeal received for the EA/FONSI/DR.

RATIONALE

In accordance with 43 CFR 4110.2-3(3), Cody William Wright (c/o William D. Wright) has accepted the Terms and Conditions associated with the grazing preference and grazing permit for the North Creek Allotment. After review of the Cody William Wright (c/o William D. Wright) transfer application and the base property that has been offered, it has been determined that the transferee is a qualified applicant as specified in 43 CFR 4110. The permitted use along with the Terms and Conditions that will be specified on the grazing permit is in accordance with the EA/FONSI/DR, Standards and Guidelines for Healthy Rangelands and the Fundamentals for Rangeland Health.

DECISION AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§43 CFR 4110.2-3(c): If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is being transferred and file with the authorized officer a properly completed transfer application for approval. No transfer will be allowed without the written consent of the owner(s), and any person or entity holding an encumbrance of the based property from which the transfer is to be made.

§43 CFR 4130.2(a): Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§ 4130.3, 4130.3-1, and 4130.3-2.

§43 CFR 4130.2(b): The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

§43 CFR 4130.2(d): The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless (1) The land is being considered for disposal; (2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; (3) The term of the base

property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease; or (4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

§4130.3: Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

§4160.1(a): Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

LIVESTOCK DECISION PROTEST/APPEAL PROCEDURES

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the Proposed Decision under 4160.1 of this title, in person or in writing to the authorized officer (Elizabeth R. Burghard, Field Manager), Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, Utah 84721) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve his Final Decision on the protestant and the interested public.

In the absence of a protest, the Proposed Decision shall constitute my Final Decision without further notice unless otherwise provided in the Proposed Decision in accordance with 43 CFR 4160.3(a).

In accordance with 43 CFR 4.470, 4160.3(c), and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer (Elizabeth R. Burghard, Field Manager), 176 East DL Sargent Drive, Cedar City, Utah 84721). Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, 125 South State Street,

Suite 6201, Salt Lake City, Utah 84138. Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).


Elizabeth R. Burghard
Field Office Manager
Cedar City Field Office

10 / 27 / 14
Date

